

Domingo, David

From: Thurmon, Clarke
Sent: Tuesday, December 05, 2017 2:24 PM
To: Domingo, David
Subject: RE: ICL cmnts re Driggs settlment

David,

Hello.

Thanks for this information.

If there is no urgency for you to respond, I would like for you and I to talk this through a bit; albeit, primarily for my education on the issue.

Are you free Thursday afternoon at all?

Thanks,
Clarke

Clarke Thurmon

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From: Domingo, David
Sent: Tuesday, December 05, 2017 2:00 PM
To: Thurmon, Clarke <Thurmon.Clarke@epa.gov>
Subject: FW: ICL cmnts re Driggs settlment

Clarke,

Just left message with ICL. Their comments are off: there's a corresponding compliance order because it's a different process (no public comment period). We done this in the past on a number of muni cases. Good news is that ICL's proposed 18 months is close to the 24 months in the order.

Unlike other statutes (e.g. RCRA), we don't have stipulated penalty authority under CWA 402. We would have to go through DOJ (via a consent decree) to get stip.

The penalty amount is derived from the penalty policy and includes application of the mitigation tables for muni's. Specifically, the City demonstrated good faith efforts to comply including construction of \$11.5M plant and over an additional \$500,000 to address current violations.

He's already sent the letter to the RHC and we have their comments so we'll have to respond. If you're okay with me calling ICL, I'd like to explain the situation further and provide a pdf copy of the compliance order. FYI...we just got the signed original last night.

Let me know what you would like me to do.

Thank you.

D.

From: Justin Hayes [<mailto:jhayes@idahoconservation.org>]

Sent: Tuesday, December 05, 2017 1:11 PM

To: Domingo, David <Domingo.David@epa.gov>

Subject: ICL cmnts re Driggs settlment

David — See attached ICL comments on the proposed Driggs Consent Agreement.

I'm putting a copy in the mail for the regional hearing clerk since I do not have her email.

- Justin

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Justin Hayes

Program Director

Idaho Conservation League

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